

ESTTA Tracking number: **ESTTA532415**

Filing date: **04/15/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Fromageries Bel
Granted to Date of previous extension	04/14/2013
Address	16 boulevard Malesherbes Paris, F-75008 FRANCE

Name	Bel Brands USA, Inc.
Granted to Date of previous extension	04/14/2013
Address	25 Northwest Point Blvd. Elk Grove Village, IL 60007 UNITED STATES

Attorney information	Jess M. Collen Collen IP, Intellectual Property Law, PC The Holyoke-Manhattan Building, 80 South Highland Avenue Ossining, NY 10562 UNITED STATES Imcandrews@collenip.com, docket@collenip.com, pmulhern@collenip.com Phone:914-941-5668
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Applicant Information

Application No	85614831	Publication date	10/16/2012
Opposition Filing Date	04/15/2013	Opposition Period Ends	04/14/2013
Applicant	Norseland Incorporated 1290 East Main Street Stamford, CT 06902 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. All goods and services in the class are opposed, namely: Cheese

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Dilution	Trademark Act section 43(c)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3441442	Application Date	12/04/2006
Registration Date	06/03/2008	Foreign Priority Date	NONE
Word Mark	SPREAD SMILES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2007/02/03 First Use In Commerce: 2007/02/03 Cheese spreads		

U.S. Registration No.	3472994	Application Date	01/16/2007
Registration Date	07/22/2008	Foreign Priority Date	NONE
Word Mark	SPREAD SMILES		
Design Mark			
Description of Mark	The mark consists of a stylized version of "SPREAD SMILES".		
Goods/Services	Class 029. First use: First Use: 2007/02/03 First Use In Commerce: 2007/02/03 Cheese spreads		

U.S. Registration No.	3879288	Application Date	10/23/2009
Registration Date	11/23/2010	Foreign Priority Date	04/27/2009
Word Mark	SHARING SMILES		

Design Mark	SHARING SMILES
Description of Mark	NONE
Goods/Services	<p>Class 029. First use: Eggs, milk and milk products excluding ice cream, ice milk and frozen yogurt; milk beverages with high milk content; edible oils and fats; cheese and cheese specialties, namely, cheese, cheese spreads, cheese food, cheese and cracker combinations, cheese substitutes, cream cheese, cottage cheese, food package combinations consisting primarily of cheese</p> <p>Class 030. First use: Coffee, artificial coffee, tea, cocoa, sugar, rice, tapioca, sago; preparations made from cereals, namely, cereal based snack food, ready to eat cereal based food bars; bread, pastry, yeast and baking powder; confectionery, namely, cocoa-based ingredients for confectionery products, confectionery chips for baking, peanut butter confectionery chips; flavoured edible ices; honey, treacle, salt; mustard, vinegar, sauces; condiments, namely, pepper; spices; ice; milk products, namely, ice cream, ice milk and frozen yogurt</p>

Attachments	77056396#TMSN.jpeg (1 page)(bytes) 77083787#TMSN.jpeg (1 page)(bytes) 79076703#TMSN.jpeg (1 page)(bytes) N1695_Notice of Opposition_130415.PDF (12 pages)(859583 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jess M. Collen/
Name	Jess M. Collen
Date	04/15/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Applicant : Norseland Incorporated
Serial No. : 85/614,831
Filed : May 2, 2012



For :
Published : October 16, 2012

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313

NOTICE OF OPPOSITION

Opposers, Bel Brands USA, Inc., a Wisconsin corporation with its principal place of business at 30 South Wacker Drive, Suite 3000, Chicago, Illinois 60606, and Fromageries Bel, a Société Anonyme of France with its principal place of business at 16 Boulevard Malesherbes, F-75008 Paris, France (collectively “Bel” or “Opposer”), by its attorneys files this Notice of Opposition against Norseland Incorporated (“Norseland” or “Applicant”), a Connecticut corporation located at 1290 East Main Street, Stamford, Connecticut, 06902 because it believes it would be damaged by the registration of the mark described in the above-identified application in International Class 29, and hereby opposes the application pursuant to 15 USC § 1063 and 37 CFR § 2.104.

As grounds for the opposition, it is alleged that:

1. Bel is and has been engaged in the sale and marketing of identical and highly related goods to those recited by Applicant in its application to register since a time prior to the filing of Applicant's application for registration.

2. Bel is and has been engaged in the sale and marketing of goods in International Class 29 under the registered trademark SPREAD SMILES since at least 2007.

3. Bel is and has been engaged in the sale and marketing of goods in International Class 29 under the registered trademark SHARING SMILES since at least 2009.

4. Bel is the owner of the following valid and subsisting U.S. trademark registrations, including:

SPREAD SMILES	REG. NO.	3,441,442
SPREAD SMILES	REG. NO.	3,472,994
SHARING SMILES	REG. NO.	3,879,288

(collectively referred to as the SMILES Marks).

5. Bel has used its SMILES Marks in commerce extensively and has acquired considerable and valuable goodwill and wide-scale recognition for its marks. The public has come to associate the SMILES Marks with Bel and Bel's cheese goods.

6. Bel's registrations are prima facie proof of ownership and use of the mark from the original date of filing of the application, pursuant to 15 U.S.C. § 1057(b), and of the exclusive right to use the registered marks in commerce.

7. Bel has a long history of the sale and offering for sale of cheese in International Class 29. Bel's highly visible use of its trademarks and trade dress forms a major component of Bel's brand marketing efforts.

8. Bel has a long history of the sale and offering for sale of cheese utilizing a distinctive trade dress which includes numerous elements, including among other things, a small round cheese portion, and a strip opening which is a featured characteristic of the goods.

9. Applicant's mark is confusingly similar to Bel's SMILES Marks and is likely, when applied to the goods of the applicant, to cause confusion, or to cause mistake or to deceive. 15 U.S.C. § 1052(d). Applicant's mark makes a highly similar commercial impression to Bel's SMILES Marks due to its similar sound and appearance. The overall commercial impression of applicant's mark, when applied to the same or similar goods, would cause confusion or be likely to cause confusion, mistake, or deception.

10. On information and belief, Applicant intends to use its confusingly similar mark for cheese in Class 29.

11. On information and belief, use by the Applicant for goods in class 29, will cause confusion, mistake and deception with respect to those goods, by virtue of Bel's prior use of its SMILES Marks and by virtue of Bel's renown as a manufacturer of cheese.

12. On information and belief, the Applicant's mark and Bel's SMILES Marks are applied to highly related, if not identical, goods and are likely to be sold to the same or similar channels of distribution. Applicant's mark so resembles Bel's SMILES registrations and well-known marks, as used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake or to deceive.

13. Applicant's intended use of its mark will be confusingly similar to the manner in which Bel uses its SMILES Marks.

14. In addition, Applicant's use of the stylized representation of a small round cheese opening with a strip is highly similar Bel's trade dress which Bel uses to sell its cheese products.

15. Upon information and belief, the registration of Applicant's mark is likely to diminish and dilute the distinctive value and distinctive character of Bel's famous mark, thus damaging Bel.

16. Upon information and belief, Applicant's registration of its mark would be likely to cause confusion, mistake and deception. Such registration would substantially harm Bel.

OPPOSER Bel prays that this application Serial No. 85/614,831 be refused, that no registration be issued thereon to Applicant and that this Opposition be sustained in favor of Bel.

Respectfully submitted for
Opposer,
Bel Brands USA, Inc. and Fromageries Bel

By: 

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DATED: April 15, 2013

Enclosures: Exhibits A-C
JMC/LAM:pm

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SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FILED
ELECTRONICALLY WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE
ELECTRONIC SYSTEM FOR TRADEMARK TRIALS AND APPEALS.

COLLEN *IP*, THE HOLYOKE-MANHATTAN BUILDING, 80 SOUTH HIGHLAND
AVENUE, OSSINING, NEW YORK 10562



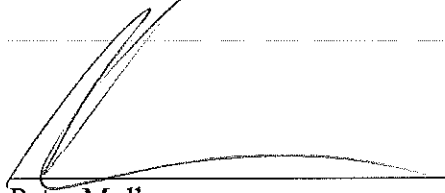
Peter Mulhern

Date: April 15, 2013

CERTIFICATE OF SERVICE

I, Peter Mulhern, hereby certify that on April 15, 2013, I caused a true copy of the foregoing Notice of Opposition to be served by first class mail upon Applicant's correspondent of record, by United States First Class Mail, addressed to counsel for Applicant as follows:

Perla M. Kuhn
Edwards Wildman Palmer LLP
PO Box 130
New York, New York 10150-0130



Peter Mulhern

EXHIBIT A

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,441,442

Registered June 3, 2008

**TRADEMARK
PRINCIPAL REGISTER**

SPREAD SMILES

BEL BRANDS USA, INC. (WISCONSIN CORPORATION)
25 NORTHWEST POINT BLVD., SUITE 1000
ELK GROVE VILLAGE, IL 60007

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: CHEESE SPREADS, IN CLASS 29 (U.S. CL. 46).

SN 77-056,396, FILED 12-4-2006.

FIRST USE 2-3-2007; IN COMMERCE 2-3-2007.

SANJEEV VOHRA, EXAMINING ATTORNEY

EXHIBIT B

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,472,994

Registered July 22, 2008

**TRADEMARK
PRINCIPAL REGISTER**



BEL BRANDS USA, INC. (WISCONSIN CORPORATION)
25 NORTHWEST POINT BLVD., SUITE 1000
ELK GROVE VILLAGE, IL 60007

THE MARK CONSISTS OF A STYLIZED VERSION OF "SPREAD SMILES".

FOR: CHEESE SPREADS, IN CLASS 29 (U.S. CL. 46).

SN 77-083,787, FILED 1-16-2007.

FIRST USE 2-3-2007; IN COMMERCE 2-3-2007.

SANJEEV VOHRA, EXAMINING ATTORNEY

EXHIBIT C

United States of America

United States Patent and Trademark Office

SHARING SMILES

Reg. No. 3,879,288

Registered Nov. 23, 2010

Int. Cls.: 29 and 30

TRADEMARK

PRINCIPAL REGISTER

FROMAGERIES BEL (FRANCE SOCIÉTÉ ANONYME)
16 BOULEVARD MALESHERBES
PARIS, FRANCE F75008

FOR: EGGS, MILK AND MILK PRODUCTS EXCLUDING ICE CREAM, ICE MILK AND FROZEN YOGURT; MILK BEVERAGES WITH HIGH MILK CONTENT; EDIBLE OILS AND FATS; CHEESE AND CHEESE SPECIALTIES, NAMELY, CHEESE, CHEESE SPREADS, CHEESE FOOD, CHEESE AND CRACKER COMBINATIONS, CHEESE SUBSTITUTES, CREAM CHEESE, COTTAGE CHEESE, FOOD PACKAGE COMBINATIONS CONSISTING PRIMARILY OF CHEESE, IN CLASS 29 (U.S. CL. 46).

FOR: COFFEE, ARTIFICIAL COFFEE, TEA, COCOA, SUGAR, RICE, TAPIOCA, SAGO; PREPARATIONS MADE FROM CEREALS, NAMELY, CEREAL BASED SNACK FOOD, READY TO EAT CEREAL BASED FOOD BARS; BREAD, PASTRY, YEAST AND BAKING POWDER; CONFECTIONERY, NAMELY, COCOA-BASED INGREDIENTS FOR CONFECTIONERY PRODUCTS, CONFECTIONERY CHIPS FOR BAKING, PEANUT BUTTER CONFECTIONERY CHIPS; FLAVOURED EDIBLE ICES; HONEY, TREACLE, SALT; MUSTARD, VINEGAR, SAUCES; CONDIMENTS, NAMELY, PEPPER; SPICES; ICE; MILK PRODUCTS, NAMELY, ICE CREAM, ICE MILK AND FROZEN YOGURT, IN CLASS 30 (U.S. CL. 46).

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

PRIORITY DATE OF 4-27-2009 IS CLAIMED.

OWNER OF INTERNATIONAL REGISTRATION 1023130 DATED 10-23-2009, EXPIRES 10-23-2019.

SER. NO. 79-076,703, FILED 10-23-2009.

ANDREW LEASER, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office